

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  ENTERGY POWER GENERATION CORPORATION, HAWKEYE GENERATING, L.L.C.	DOCKET NO. GCU-01-2
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**FINAL DECISION AND ORDER**

(Issued June 17, 2002)

**STATEMENT OF THE CASE**

On December 27, 2001, Hawkeye Generating, L.L.C. (Hawkeye), filed with the Utilities Board (Board) an application pursuant to Iowa Code chapter 476A for a generating-facility certificate to construct and operate a 615 MW combined-cycle, natural gas-fired, combustion turbine plant. The proposed facility is called the Hawkeye Generating Facility (Facility) and is to be located at a site approximately 2.5 miles south of Orient, Iowa. Hawkeye held the informational meeting required by 199 IAC 24.7 on September 26, 2001, in Orient, Iowa, and proof of publication of notice of the meeting was filed.

On February 6, 2002, the Board docketed Hawkeye's application and established a procedural schedule. The order also required Hawkeye to file additional information regarding the application, including, but not limited to, information regarding the transmission corridor and routing, the existing transmission network in the vicinity, and all proposed transmission additions. Hawkeye filed the

requested information on February 26, 2002, and on March 13, 2002, filed map clarifications pursuant to the Board's February 6, 2002, order. The February 6, 2002, order also granted Hawkeye's request for a waiver of any rules in 199 IAC 24 that would be superceded by new siting rules proposed in Docket No. RMU-01-7.

Notice of the filing was mailed to all owners and lessees of real property located within 1,000 linear feet of the proposed site pursuant to Iowa Code § 476A.4(2)"c" (2001 Supp.) as listed in Hawkeye's application. In accordance with Iowa Code § 476A.4(3), notice was published and proof of publication filed.

There are five other parties to this proceeding: the Consumer Advocate Division of the Department of Justice (Consumer Advocate), MidAmerican Energy Company (MEC), Interstate Power and Light Company, f/k/a IES Utilities, Inc. (IPL), CPV Highlands, LLC (CPV), and Scott and Dixie Moore (Moore). None of these other parties filed testimony or formal objections to the application, however, the Board notes that the Moores filed a farm appraisal of their farm, located immediately across the road from Hawkeye's proposed plant.

A hearing before the Board was held in Greenfield, Iowa, on April 9, 2002. All parties appeared before the Board. Initial post-hearing briefs were received from Hawkeye, MEC, and Consumer Advocate on April 23, 2002. Reply briefs were received from these parties on April 30, 2002.

### **DISCUSSION OF THE EVIDENCE**

The evidence in this case was initially contained in Hawkeye's application and supplemented by additional information pursuant to the Board's order. The proposed 615 MW<sup>1</sup> size best represents the facility's available capacity at peak. The Mid-continent Area Power Pool (MAPP) Design Review Sub-Committee (DRS) has accredited the facility for 640 MW. The proposed facility will operate on natural gas. The commercial operation is intended to begin in June 2004. Hawkeye has filed a schedule for significant commitments and has also stated that negotiations are underway for power sales from the facility.

Subject to Iowa Department of Natural Resources (IDNR) approval, the facility will operate up to 8,760 hours per year, depending on power needs. The facility will receive natural gas from a pipeline owned by Natural Gas Pipeline of America (NGPA), located on the proposed site. The facility will interconnect to the existing transmission network owned by MEC at two points. The first interconnection will be with the Booneville-Cooper 345 kV line that is located on the proposed site. The second interconnection will be with MEC's Council Bluffs-Madison 345 kV line that runs approximately one mile north of the proposed site. The second line will be looped into the switchyard located on the proposed site.

Hawkeye's filing maintains that the facility will make a significant contribution to ensure reliable electric service to Iowa consumers by adding generating capacity

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<sup>1</sup> The actual accredited capacity will vary according to the conditions of operation (temperatures, relative humidity, etc.)

to the grid. Hawkeye also points out the facility's economic benefits to the state. Hawkeye maintains that the facility will potentially foster future growth and development of the local economy by utilizing community merchants and businesses to provide the services and materials needed for the facility. Hawkeye is expected to employ 400-450 workers over the course of the entire construction period. Hawkeye also asserts that the facility will produce an increase in the property replacement taxes and, based on the forecasted load factor for the facility, the taxes potentially generated by the facility will be approximately \$2 million per year when averaged over the life of the facility. No testimony or other evidence was filed refuting the evidence Hawkeye spread on the record from its application and its additional information filed.

### **ANALYSIS**

Iowa Code chapter 476A (Supp. 2001) is the applicable chapter dealing with electric power generating certificates. The 2001 Iowa Acts, House File 577, significantly amended this chapter. Among other things, House File 577 changed the decision criteria the Board examines in a certification or siting proceeding.

Prior to the enactment of House File 577, Iowa Code § 476A.6 listed six criteria for the Board to examine in determining whether to issue a generating certificate. Three of the criteria only applied to public utilities. These three criteria were whether the public utility had 1) a comprehensive energy management plan,

2) considered sources of supply from either purchase of electricity or investment in facilities owned by others, and 3) considered all feasible alternatives to the proposed facility including nongeneration alternatives.

The other three criteria applied to all applicants. The first criterion was that the proposed facility is required by the present or future public convenience, use, and necessity. The second criterion was that the applicant was willing to abide by the terms of the certificate. The final criterion applying to all applicants was that the proposed facility would cause minimum land use, environmental, and aesthetic impact.

House File 577 eliminated the criteria applying only to public utilities and modified the criteria applicable to all applicants. Now, there are three decision criteria and those criteria apply to both public utility and non-public utility applicants.

The decision criteria in Iowa Code § 476A.6 (2001 Supp.) are:

1. The services and operations resulting from the construction of the facility are consistent with legislative intent as expressed in section 476.53 and the economic development policy of the state as expressed in Title I, subtitle 5, and will not be detrimental to the provision of adequate and reliable service.
2. The applicant is willing to construct, maintain, and operate the facility pursuant to the provisions of the certificate and this subchapter.
3. The construction, maintenance, and operation of the facility will be consistent with reasonable land use and environmental policies and consonant with reasonable utilization of air, land, and water resources, considering available technology and the economics of available alternatives.

The first criteria provides for the Board to examine three things: legislative intent expressed in Iowa Code § 476.53 (2001 Supp.), economic development policy as expressed in Title I, Subtitle 5, and whether the facility will be detrimental to the provision of adequate and reliable electric service. The proposed facility is consistent with the legislative intent expressed in Iowa Code § 476.53 (Supp. 2001). This section provides, in part, that:

It is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state.

Hawkeye's facility will make a significant contribution to economic development. Not only is the provision of adequate and reliable electric service a key component of the state's infrastructure, but also the facility will generate 400-450 jobs at the peak of construction as well as provide permanent employment and tax revenue. Hawkeye has established that construction and operation of the facility is consistent with the economic development policy of the state.

One of the most important determinations for the Board to make under the first criterion will be the impact of the generation facility on area transmission facilities. Hawkeye has established that the proposed facility will add significant generation capacity to the grid, thereby ensuring reliable electric service to Iowa consumers and economic benefits to the state. However, the record also demonstrates that a new source of electric generation in Iowa will require certain modifications to the existing transmission system.

MAPP DRS has accredited Hawkeye's facility and approved the interconnection of the facility to the existing transmission network, subject to certain conditions. The conditions imposed by the DRS are part of the evidentiary record in this proceeding and Hawkeye witnesses testified that it would comply with the MAPP DRS requirements as they relate to the interconnection.

The Board also notes that Hawkeye has not completed any studies analyzing transmission flows over the interconnecting transmission system in the region of the facility. The Board finds that this first criterion is satisfied when Hawkeye completes these studies scheduling transmission flows from the facility in addition to obtaining approval from regional reliability authorities and continuing to comply with the interconnection requirements imposed by MAPP DRS.

Hawkeye's revised construction plan states that it intends to construct the facility in two stages. First, a 342 MW simple-cycle combustion turbine will be built by 2003. Then, the facility will be converted to a combined-cycle mode by adding equipment in June 2004. Hawkeye also states that if market conditions do not justify the staged construction, it would make the unit available only in the combined-cycle mode.

While Hawkeye's unopposed expression of its intent to comply with the provisions of a certificate and the requirements of Chapter 476A is enough to satisfy the second statutory criterion, it is important that the Board has knowledge of the status of the project as well as data on how the proposed unit ultimately will be configured. Therefore, the Board requests Hawkeye provide the Board with periodic

updates, as information becomes available, regarding the status of the project, including the option used (simple cycle or combined cycle) to build the facility.

The third criterion deals with land use and environmental impacts. The proposed site of the facility is optimal from economic, engineering, electrical transmission, and environmental perspectives. The facility can be constructed, maintained, and operated without significant detrimental land use impacts. Engineering improvements to the site's access roads will be provided as necessary during construction and will be maintained during and after construction. No landmarks of historic, religious, archeological, scenic, natural, or other cultural significance are located within one mile of the site.

With respect to environmental matters, the Board has traditionally deferred to the Iowa Department of Natural Resources (IDNR) and found that issuance of applicable air quality, wastewater, and other necessary environmental permits by the IDNR establishes compliance with this criteria. However, because all appropriate pre-construction permits have not been issued, a generating certificate cannot be issued. Iowa Code § 476A.5(1). A certificate for the generating unit will not be issued until Hawkeye notifies the Executive Secretary of the Utilities Board that all appropriate pre-construction permits have been issued. No additional hearing is required and the Board will issue the actual generating certificate subsequent to this notification.

While Hawkeye has assured the Board throughout this proceeding that it will meet all permit and licensing requirements of the various regulatory agencies that



have jurisdiction over the construction, maintenance, and operation of the facility, construction or operation of the facility cannot begin without first obtaining the necessary permits and approvals. Advance site preparation work, however, can commence immediately with the issuance of this decision. Iowa Code § 476A.9 (2001).

### **FINDINGS OF FACT**

1. It is reasonable to find that the proposed facility will, among other things, increase generating capacity to the grid, help to ensure reliable electric service to Iowa customers, create temporary and permanent jobs, and increase the local tax base such that it is consistent with Iowa's energy and economic development policies.
2. It is reasonable to find that Hawkeye will comply with any and all provisions of a certificate authorizing construction, operation, and maintenance of the proposed facility.
3. It is reasonable to find the proposed facility will have minimal land use and environmental consequences, considering available technology and the economics of available alternatives.
4. It is reasonable to find that if final pre-construction permits are issued, the proposed facility will satisfy air quality and wastewater standards and have minimal environmental and land use consequences.

### **CONCLUSIONS OF LAW**

1. The Utilities Board has jurisdiction of the parties and the subject matter of this proceeding pursuant to the provisions of Iowa Code chapter 476A (Supp. 2001).

2. Hawkeye Generating, L.L.C., subject to the conditions outlined in this order, has met the three statutory criteria contained in Iowa Code § 476A.6.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. Pursuant to Iowa Code chapter 476A (Supp. 2001), Hawkeye Generating, L.L.C.'s application for a certificate to construct and operate a generating unit is granted, subject to the following conditions:

a. Hawkeye Generating, L.L.C., shall complete studies analyzing transmission flows over the interconnecting transmission system in the region of the facility to schedule transmission flows from the facility. Hawkeye Generating, L.L.C., shall also obtain approval for its scheduled flows from appropriate regional reliability authorities.

b. Hawkeye Generating, L.L.C., shall comply with the interconnection requirements established by MAPP DRS.

c. Hawkeye Generating, L.L.C., shall obtain all required pre-construction permits.

2. A certificate will be issued once Hawkeye Generating, L.L.C., notifies the Board that all of the listed conditions have been met.

3. The Board also requests Hawkeye Generating, L.L.C., submit semi-annual reports to the Board under this docket providing information regarding the project's status as well as data on how the proposed unit will be configured.

4. This order is the final decision of the Utilities Board in Docket No. GCU-01-2.

5. The Utilities Board retains jurisdiction of the subject matter in this docket to the extent provided in Iowa Code chapter 476A.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 17<sup>th</sup> day of June, 2002.